

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Civil File No.: 1:24-CV-482-UA-JEP

WHATABRANDS LLC,

Plaintiff,

v.

WHAT-A-BURGER #13, INC.,  
WHAT-A-BURGER #13 LOCUST  
PARTNERS, LLC,  
WHAT-A-BURGER 13 MOBILE FOOD,  
LLC,  
WAB #13, LLC, and  
ZEB BOST,

Defendants.

**MOTION TO DISMISS PLAINTIFF'S  
FIRST AMENDED COMPLAINT**

---

**MOTION TO DISMISS BY DEFENDANTS WHAT-A-BURGER #13, INC., WHAT-A-BURGER #13 LOCUST PARTNERS, LLC, WHAT-A-BURGER 13 MOBILE FOOD, LLC, WAB #13, LLC AND ZEB BOST**

NOW COMES all Defendants, by and through the undersigned counsel, and moves to dismiss Plaintiff's First Amended Complaint based on Rules 8(a) and 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted.

In support of this Motion, Defendants rely on the argument and authorities in the brief submitted contemporaneously herewith in accordance with LR7.2.

WHEEFORE, Defendants pray the Court to enter an Order:

- 1) Dismissing Plaintiff's First Amended Complaint for failure to state a claim upon which relief maybe granted; and
- 2) Granting such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 1<sup>st</sup> of October, 2024.

**HOWARD STALLINGS LAW FIRM**

By: /s/ Kenneth C. Haywood  
Kenneth C. Haywood (State Bar No. 19066)  
Robert H. Jessup (State Bar No. 42945)  
Wesley A. Stewart (State Bar No. 58095)  
5410 Trinity Road, Suite 210  
Raleigh, North Carolina 27607  
Telephone: (919) 821-7700  
[khaywood@howardstallings.com](mailto:khaywood@howardstallings.com)  
[rjessup@howardstallings.com](mailto:rjessup@howardstallings.com)  
[wstewart@howardstallings.com](mailto:wstewart@howardstallings.com)  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I electronically filed the foregoing Motion to Dismiss, with the Clerk of Court using the CM/ECF system which will send notification of such filing to Plaintiff's counsel.

This the 1<sup>st</sup> of October, 2024.

**HOWARD STALLINGS LAW FIRM**

By: /s/ Kenneth C. Haywood  
Kenneth C. Haywood  
Attorneys for Defendants